

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1673 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GITABEN ODHADBHAI MINOR THRO' GUARDIAN ODHADBHAI J VADA

Versus

HAJABHAI KHIMABHAI MARU

Appearance:

MR SAKEEL A QURESHI for Petitioner

MR YS LAKHANI for Respondents.

CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 10/10/96

ORAL JUDGEMENT

The petitioner who is the original claimant has challenged the judgment and order dated 28.6.1995 passed by the learned Motor Accident Claims Tribunal (Main), Junagadh below Ex.1 in Misc. Claim Application No. 431 of 1994, whereby the learned Tribunal rejected the application of the claimant under S.140(b) of the Motor Vehicles Act, 1988 (for short "the Act").

2. The applicant-claim petitioner sustained injuries in a vehicular accident that had occurred on 21.8.1994 while she was travelling in a bus owned by Respondent no.2. The applicant filed Misc. Claim Application No. 431 of 1994 for interim compensation under S.140(b) of the Act. Alongwith the application, the applicant produced medical certificate at mark 10/1 and disablement assessment certificate at mark 10/2. As per the said certificate, the applicant had suffered disability to the extent of 81% of right upper extremity. The learned Tribunal came to the conclusion that the certificate requires detailed scrutiny of the medical expert and therefore, the same is not acceptable.

3. In my opinion, the reasoning of the learned Tribunal cannot be said to be proper. The object of awarding interim compensation under S.140(2) is a beneficial and social welfare piece of legislation and the courts should adopt a beneficial rule of construction and in any event the construction which fulfils the policy of legislation should be preferred. The certificate produced at mark 10/2 clearly showed that the applicant had sustained fracture of metacarpal as a result of which she suffered permanent disability. The question of percentage of permanent disablement suffered by the applicant can be decided at the end of the trial. The certificate of assessment of disability prima facie shows that the applicant had suffered permanent disablement in the vehicular accident. Therefore, in my opinion, the learned Tribunal has erred in not awarding interim compensation of Rs.12,000/- claimed by the applicant.

4. It is not disputed that the applicant had suffered injuries in the vehicular accident, wherein S.T.Bus No.GRU 9979 owned by Respondent no.2 Corporation was involved. Therefore, respondent no.2 shall be liable to pay the interim compensation of Rs.12,000/- to the applicant. Accordingly, the CRA deserves to be allowed.

5. As a result of the foregoing discussion, this CRA is allowed. The order dated 28.6.1995, passed by the MAC Tribunal (Main), Junagadh below Exh.1 in Misc. Claim Application No. 431 of 1994 is quashed and set aside, and the said application stands allowed. Respondent No.2 Gujarat State Road Transport Corporation is directed to deposit the amount of Rs.12,000/- before the MAC Tribunal (Main), Junagadh in Misc.Claim Application No. 431/94 within TWO WEEKS from the date of receipt of the writ of this Court.

It appears that at present the applicant is minor and by this time she might be 17 years of age. Therefore, the Tribunal is directed to invest the amount of Rs.12,000/- in any nationalised bank for a period of 15 months, or till the time the applicant attains the age of majority. On the applicant attaining majority, the amount of Rs.12,000/- with the interest accrued thereon be paid to her.

Rule made absolute accordingly, with no order as to costs.

abraham.